

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1880.—Ordered to be printed.

Mr. PLATT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1501.]

The Committee on Pensions, to whom was referred the petition of Mrs. Britannia W. Kennon, widow of Commodore Beverly Kennon, praying for a restoration of her pension to the rate at which it was originally granted by law; also Senate bill 871, granting a pension to Mary W. Jones, at the rate formerly allowed her, having had the same under consideration, beg leave to report:

By the pension law as it existed prior to the acts of July 14, 1862, July 25, 1866, and July 27, 1868, the pensions granted to officers of the Navy, seamen, and marines, and to their widows or minor children in case of death, were made equal to the half-monthly pay of such officers, seamen, and marines, and were payable from the interest of the naval pension fund. The half-monthly pay of such officers, &c., as it existed in 1835, is the basis upon which such pensions were granted. As early as 1779, the act constituting the Navy pension fund provided "That the same shall be and forever remain a fund for the payment of the half pay to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency," language which has been substantially retained in our statutes until the present time, and is now to be found in Revised Statutes, section 4752.

The act of July 14, 1862, established pensions for the Army and Navy according to rank, making Navy pensions to correspond with Army pensions, granted to officers, &c., of corresponding rank.

By the old law the pension of a naval captain, his widow, or children, was \$50 per month. By the act of July 14, 1862, it was made \$30 per month. Under the old law, the pension of a naval surgeon of the first class was \$35 per month, and of the second class, \$27.50 per month. By the act of July 14, 1862, such pensions were fixed at \$30 and \$25 per month, respectively, and a trivial reduction was made in case of a few petty officers.

The act of July 14, 1862, was construed as affecting only pensions which should be granted after the passage of the act.

Section 3 of the act of July 25, 1866, provided—

That the provisions of an act entitled "An act to grant pensions," approved July 14, 1862, and of the acts supplementary thereto and amendatory thereof, are hereby so far as applicable extended to the pensioners under previous laws, except revolutionary pensions.

In applying this act no reduction of naval pensions already granted was made, and the pensions of all persons receiving a less rate of pension than that granted by the act of July 14, 1862, were increased to correspond with the provisions of that act.

Section 13 of the act of July 27, 1868, provided—

That the third section of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July 25, 1866, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution and prior to the 4th of March, 1861, on the same footing as to rate of pension from and after the passage of said act as those who have been pensioned under acts passed since said 4th day of March, 1861, and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of \$8 per month.

Under this act, upon a decision of the Secretary of the Interior, naval pensions already granted were reduced to the rates provided in the act of July 14, 1862; such reduction taking effect from the last half-yearly payment made prior to February 10, 1870, the date of the decision.

By this construction the pensions of the widows or orphans of 26 naval captains, 9 first-class naval surgeons, and 2 second-class naval surgeons, were reduced to the rate provided in the act of July 14, 1862, and some slight reductions, unimportant in amount, were made in cases of some petty officers.

The total amount of such reduction of the pensions of the widows and orphans of naval captains and surgeons was \$6,960 per year upon the list as it existed in 1867. To restore all naval pensions to the amount originally granted, from the time when reduced to the present date, would require less than \$100,000, and taking into account the death of widows and the arrival of orphans to the age of sixteen since the reduction, the future increase of the pension list by such restoration will be considerably less than \$6,960 per annum.

The committee believe that such reduction of pensions furnishes the only instance in which a pension once granted, allowed, and enjoyed has been reduced by law, and that such reduction was an act of injustice to the pensioners, the faith of the government having in spirit if not in terms been pledged to the continued payment of such pensions from the naval pension fund at the rate originally granted.

The committee also regard the construction placed upon the acts of July 25, 1866, and July 27, 1868, by which such reduction was made, as extremely doubtful. The title of the act of July 25, 1866, was "To increase the pensions of widows and orphans," &c. The general effect of the act was to increase pensions, and it may well be doubted whether Congress intended that its provisions should in any case operate to reduce the amount of pensions already granted.

The committee, believing that justice should be done to all pensioners whose pensions were thus reduced as well as to those who claim relief by petitions and special acts referred to the committee, would recommend the passage of the accompanying bill, for a public act.

Communications from the Secretary of the Navy and Commissioner of Pensions, giving full information and details respecting the various statutes relating to naval pensions and the naval pension fund are hereto appended.

NAVY DEPARTMENT,
Washington, February 24, 1880.

SIR: I have the honor to acknowledge the receipt of the communication of the Committee on Pensions, of the 13th instant, requesting to be informed "in what manner the naval pension fund was constituted and what are its components."

The naval pension fund was *originally* constituted by the "Act for the better government of the Navy of the United States," approved March 2, 1789, as follows:

"Sec. 8. That every officer, seaman, or marine, disabled in the line of his duty shall be entitled to receive for his own life, and for the life of his wife, if a married man, at the time of receiving the wound, one-half of his monthly pay.

"Sec. 9. That *all* the money accruing, or which has already accrued, from the sale of prizes, shall be and remain forever a fund for the payment of the half-pay to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for this purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied as Congress may hereafter direct by law, to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as may not be disabled, who merit by their bravery, or their long and faithful services, the gratitude of the country."

The "Act for the better government of the Navy of the United States," approved April 23, 1800, repealed the foregoing act.

Section 8 provided that the officer, seaman, and marine disabled in the line of his duty should be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half of his monthly pay.

"Sec. 9. That *all money accruing, or which has already accrued, to the United States* from the sale of prizes, shall be, and remain forever, a fund for the payment of pensions and half-pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same. And if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, marines, and for such as, though not disabled, may merit, by their bravery, or long and faithful services, the gratitude of their country."

The "act for the better government of the Navy of the United States," approved July 16, 1862 (section 11), strikes out in section 9 of the act approved April 23, 1800, the words "and half-pay should the same be hereafter granted," and the words "and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country." In other respects the section agrees with section 3 of the act of April 23, 1800, and is now the law.

The naval pension fund is *now composed of* (sections 4751 and 4752 Revised Statutes):

1. One-half of the money accruing from fines for cutting, destroying, or removing live-oak and other timber or trees reserved for naval purposes.

2. All money accruing, or already accrued, to the United States (*i. e.*, one-half) from the sale of prizes.

Other provisions in regard to the naval pension fund are contained in sections 4750, 4753, 4754, 4755, 4756, and 4757, Revised Statutes.

As bearing on the subject, I beg leave to invite your attention to a "report of a board of naval officers on the subject of Navy pensions," contained in the Appendix to the report of the Secretary of the Navy for the year 1869, page 233.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. R. E. WITHERS,
Chairman of the Committee on Pensions, United States Senate.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., March 5, 1880.

SIR: In reply to your personal inquiry of the 3d instant, asking why pensions granted to commissioned officers who had become disabled in the naval service, on the basis of "one-half the monthly pay" of such officers, had not kept pace with the increased pay [salary] of these officers;

Also, the number of officers' pensions which were reduced in amount by the operation of section 13, act of July 27, 1868, and the probable amount of money it would require to place such pensioners on the same footing in relation to the amount of their pensions, as they held before any such reduction took place, I have the honor to state:

That the statutes in force prior to July 14, 1862, fixing the rate of pensions to be paid to any commissioned officer who had become "totally" disabled while in the naval service should not exceed "one-half the monthly pay of such officer."

As there were but few grades of rank affected by the act of July 27, 1868, except to increase the rate of pensions, I will, at present, refer to those only where the operation of this statute was to reduce the pension.

The pay of officers in the navy remained substantially the same from 1813 to March 2, 1835, and was as follows, the rank of captain being the highest in grade in the service:

Pay of a captain, \$100 per month.

Pay of a surgeon of over twenty years' service, \$70 per month.

Pay of a surgeon of over ten years' service, \$55 per month.

Pay of a purser, \$40 per month.

Pay of passed midshipman, \$25 per month.

The "total" pension, it will be remembered, is *one-half* of the monthly pay.

To avoid confusion in the reference to the compensation of officers, it is proper to call your attention to the fact that the monthly pay referred to does not represent the actual compensation received by officers of this grade, as they were allowed certain emoluments which made their compensation greater, *e. g.*, a certain number of rations per day were allowed, which could be computed at twenty-five cents for each ration, and there was a difference in both monthly pay and the additional allowances, determined by the situation of the officer, which the following table will serve to illustrate:

In inviting your attention to this table, you will observe that the compensation of certain officers is given, first, as it existed prior to March 3, 1835, and, second, as it existed subsequent to that date, corresponding in the analogous ranks as practicable.

In the pay of the second division, the law aggregated the monthly pay, emoluments, rations, and allowances of all kinds into one gross sum, as an annual salary, and allowed to each officer, when at sea, one ration, except the pursers, who were allowed two rations per day.

These statements are taken from the Navy Registers of the periods mentioned.

	Pay prior to March 3, 1835.			Pay subsequent to March 3, 1835.
	Monthly pay.	Rations per day.	Annual amount.	Annual salary.
Captains of vessels over 32 guns.....	\$100	8	\$1,930 00	.....
Captains of vessels under 32 guns.....	75	6	1,447 50	.....
Senior captains in service (same as first named).....	.....	.....	.....	\$4,500
Senior captains on leave (same as first named).....	.....	.....	.....	3,500
Captain of a squadron (same as the second named).....	.....	.....	.....	4,000
Captain, other than senior, on duty (same as the second named).....	.....	.....	.....	3,500
Captain, other than senior, off duty (same as the second named).....	.....	.....	.....	2,500
Surgeons of over twenty years' service.....	70	4	1,205 00	1,800
Surgeons of over twenty years at navy-yard.....	70	4	1,205 00	2,250
Surgeons of over twenty years at sea.....	80	8	1,690 00	2,400
Surgeons of over twenty years of the fleet.....	80	16	2,420 00	2,700
Surgeons of over ten years' service.....	60	4	1,085 00	1,400
Surgeons of over ten years at navy-yard.....	60	4	1,085 00	1,750
Surgeons of over ten years at sea.....	70	8	1,570 00	1,866
Surgeons of over ten years of the fleet.....	70	16	2,300 00	2,100
Pursers.....	40	2	662 50	480
Passed midshipmen, on duty.....	25	2	562 50	750
Passed midshipmen, waiting orders.....	25	2	562 50	600

Pension when allowed subsequent to March 3, 1835, was held to still refer to the "half monthly pay pension" for "total" disability, which existed at the time the law was enacted which made provisions for the pension.

To illustrate the inequality of pension if the rate thereof had changed with the pay of the officer, the annual pension would have been—

\$1,750 against \$600 to a captain;

\$900 against \$420 to a surgeon of 1st class;

\$700 against \$600 to a surgeon of 2d class;

\$300 against \$150 to a passed midshipman;

and this on the basis of the lowest salary of the officers named.

The act of July 14, 1862, providing for pension to invalids of the war of 1861, and the relatives, &c., provides in its first section, "that if any officer, non-commissioned officer, &c., * * * has been since March 4, 1861, or shall hereafter be disabled by reason of any wound received or disease contracted while in the service * * * be entitled to receive for the highest rate of disability, &c., * * * \$30 per month."

The construction given this statute related to such pensioners only whose right accrued subsequent to March 4, 1861.

Section 3, act of July 25, 1866, extended the provisions of the former act, and to include the pensioners under previous laws, except revolutionary pensioners.

This act was construed to increase the pension of those pensioned under the several acts prior to July 14, 1862, but not in any case to reduce any pension.

Section 13, act of July 27, 1868, provided "that all pensioners, whose right thereto accrued subsequent to the war of the Revolution, and prior to March 4, 1861, be placed on the same footing as to rate of pension, from and after the passage of the act (July 25, 1866), as those who have been pensioned under acts passed since March 4, 1861."

This legislation increased the pension of a large proportion, left the rates of several ranks untouched, and several were reduced in amount.

There were no *invalid* pensioners of the class you refer to (commissioned officers), whose pensions were reduced, but there were several of the classes who had received pensions on account of the death of such officers. The following statement will show the number to each rank, the rate to which reduced, and, as stated before, represents widows and minor children of officers:

26 captains, from \$50 per month to \$30.

9 surgeons, 1st class, from \$35 per month to \$30.

2 surgeons, 2d class, from \$32.50 per month to \$25.

These are taken from the roll as it existed in 1867, and no deduction is made on account of death, &c.

Computing the time from 1866 to 1880 the estimated amount of the reduction of said pensions would be \$97,440, or at the yearly value of \$6,960.

The warrant officers received a pension from \$9.50 to \$12.50 per month, and the petty officers from \$7 to \$9.50 per month, prior to 1861, but the equalization acts in 1866 and 1868 fixed the rate of pensions of the first-named at \$10 per month, and of the second-named at \$8 per month.

In stating that no commissioned officers were in receipt of a pension subject to reduction, I refer, for the purpose of avoiding confusion, to such commissioned officers of the Navy who were pensioners.

Under the old statutes it was provided that certain officers on the reserved list of the Navy should receive a pension under certain conditions, but that such pension, together with the furlough pay of the officer, should not exceed his lowest duty pay.

The pension in such cases would generally be at a less rate than is now provided for total disability for officers of like rank, while in a few cases, there being no difference in the furlough and lowest duty pay, no pension could be paid.

The reserved list was created by an act of Congress, approved February 28, 1855, and August 3, 1861, the *retired* list was created by Congress, to which, I believe, the officers on the reserved list were subsequently transferred.

I am, sir, very respectfully,

J. A. BENTLEY,
Commissioner of Pensions.

Hon. O. H. PLATT,
United States Senate.

SIR: In compliance with your instructions of the 21st instant, directing me to furnish you with a history of the laws affecting that class of Navy pensions which have been reduced by the operation of the acts of July 25, 1866, and July 27, 1868, and also to furnish you with a history of the laws affecting the Navy pension fund, I have the honor to submit the following report:

The first law enacted for persons disabled in the naval service was approved July 1, 1791. Section 11 of that act granted to the officers, non-commissioned officers, marines, or seamen of the United States Navy who had been disabled in the line of duty, pensions under regulations to be fixed by the President of the United States, the pension to commissioned or warrant officers not to exceed half the monthly pay at the time of being wounded; and to non-commissioned officers, marines, or seamen not to exceed five dollars per month. This act made provision for the officers and seamen only, and made no provision for their heirs.

The act of March 2, 1799, in section 8, granted to every officer, seaman, or marine disabled in the line of duty, for his own life and the life of his wife, if a married man at the time of receiving his wound, one-half of his monthly pay.

The act of April 23, 1800, section 8, granted to the officer, seaman, or marine disabled in the line of duty, for life, or during the continuance of the disability, a pension not to exceed one-half of his monthly pay.

The first provision made for the widows and children of those serving in the Navy was approved January 28, 1813. This act granted to the widows or children under sixteen years of age of officers of the Navy who should be killed in action or die of wounds received in the line of duty, a pension at the rate of one-half the monthly pay to which he was entitled at the time of his death, such pension to continue for the period of five years only. It will be noted that this act provided for officers only.

The act of March 4, 1814, section 2, extended the provisions of the last-named act to cover non-commissioned officers, seamen, and marines.

[These two last acts contained provisions that the pension should be paid out of the Navy pension fund.]

The act of March 3, 1817, extended the provisions of the last two named acts to the widows or children under sixteen years of age of the officers, seamen, and marines

who should die of casualties or injuries incurred or disease contracted in the service and line of duty, and to be paid out of the Navy pension fund. The pensions granted by the before-mentioned acts to the heirs of those persons serving in the United States Navy, having been granted for periods of five years only, were from time to time extended for the same period by various acts of Congress, to wit:

Of April 16, 1818, section 2; March 3, 1819; January 22, 1824; May 23, 1828; June 28, 1832; June 19, 1834; June 30, 1834; August 16, 1841, and March 3, 1845; and finally of August 11, 1848, which continued the half-monthly pay during life or widowhood, or until the children attained the age of sixteen years.

The above digest covers all the general laws relating to Navy pensions which were passed prior to July 14, 1862, which last-mentioned act related solely to the war of the rebellion, and included the Navy and Marine Corps with the Army, and fixed the rate of pension for each rank, abolishing the old half-pay principle. This act was never construed by the office as applying to any claim for a disability incurred in the Navy prior to the 4th day of March, 1861, and all such claims, notwithstanding the act of July 14, 1862, were settled under the old half-pay acts above referred to.

The act of July 25, 1866, in section 3, contained the following: "That the provisions of an act entitled 'An act to grant pensions,' approved July 14, 1862, and of the acts supplementary thereto, and amendatory thereof, are hereby, so far as applicable, extended to the pensioners under previous laws, except revolutionary pensions."

As this provision of law was so indefinite and general, it was never applied by the office in such manner as to reduce any pension granted under the old half-pay acts, although all those persons receiving a less rate of pension than that granted by the act of July 14, 1862, were increased to the rate provided in said act of July 14, 1862.

This remained the status of the old war Navy pensions until the passage of the act of July 27, 1868, section 13 of which provided "that the third section of an act entitled 'An act increasing the pensions of widows and orphans, and for other purposes,' approved July 25, 1866, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the revolution, and prior to the 4th of March, 1861, on the same footing as to rate of pension, from and after the passage of said act, as those who have been pensioned under acts passed since said 4th day of March, 1861, and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of eight dollars per month."

And even under that section no action was taken with a view to reduce the old half-pay pensions until February, 1870. The question having been submitted to the honorable Secretary of the Interior, he rendered a decision, dated February 19, 1870, in which he declared, in substance, that all those persons who were, under the old half-pay acts, receiving a higher rate of pension than was provided for in the act of July 14, 1862, should, under the provision of section 3, act of July 25, 1866, and section 13, act of July 27, 1868, be reduced to the rates provided for in the act of July 14, 1862, and that from the 25th of July, 1866, they were not entitled to a higher rate than that of the act of July 14, 1862. But in applying this ruling and decision, the office, instead of deducting the amounts overpaid from July 25, 1866, to February, 1870, issued circulars to the various pension agents throughout the country, directing them to make the reductions to the rate provided for in the act of July 14, 1862, from the date of last payment in each case. Consequently, in cases where pensioners were prompt in applying for payment, the reduction could not commence at a much earlier date than September 4, 1869. By this reduction the following classes of persons were reduced, to wit:

A captain in the Navy, from a half-pay pension of fifty dollars per month, to a pension of thirty dollars per month; a surgeon who had seen twenty years' service, from a half-pay pension of thirty-five dollars per month, to a pension of thirty dollars per month; captain's clerk and purser's clerk, from twelve and one-half dollars per month, to a pension of ten dollars per month, and all non-commissioned or petty officers whose half-pay exceeded the rate of eight dollars per month, to a pension of eight dollars per month.

The following is a brief history of the laws relating to the Navy pension fund:

The act of March 2, 1799, section 5, provided for the disposition of the different classes of captured vessels.

Section 9 of said act provided that all money accruing from the sale of such prizes as were retained as the property of the United States should constitute a fund for the payment of half-pay pensions, and if such funds should be deficient, the public faith was pledged to make good the deficiency; and if it should be more than sufficient, the act provided that the surplus should be applied as Congress might direct, to make further provision for the comfort of disabled officers, seamen, and marines, or for such as may not be disabled, who may merit by their bravery and long and faithful services, the gratitude of their country. Section 10 of said act placed the fund under the control of the Secretaries of the Navy, Treasury, and War, as commissioners of said fund.

The act of April 23, 1800, sections 5, 9, and 10, substantially re-enacted the above-named act.

The act of March 26, 1804, made provision for the depositing of this fund in the Treasury of the United States, and for the disbursing and accounting for the same.

The act of July 10, 1832, relieved the Secretaries of War and Treasury from their duties as commissioners, and constituted the Secretary of the Navy alone as trustee of the Navy pension fund, empowering him to receive applications for pension and grant the same; made provision also for investing the surplus funds, &c.

The act of July 17, 1862, provided that all moneys accruing, or already accrued from the sale of prizes, shall remain forever a fund for the payment of pensions to the officers, seamen, and marines who may be entitled to the same, &c.

The act of July 1, 1864, made provision for the investment of the Navy pension fund, &c.

The act of July 23, 1868, made provision as to the rate of interest.

The provisions in regard to the Navy pension fund, above referred to, were re-enacted in the Revised Statutes, sections 4750 to 4755, inclusive.

It is proper to add that the adjudication of naval pension claims was transferred to the Pension Office, Department of the Interior, under the act of March 3, 1849, to wit: "The act creating the Home or Interior Department, section 6."

Since March 3, 1849, Navy pension claims have been under jurisdiction of this department, the Secretary of the Navy still being the trustee of the Navy pension fund.

It is believed that the statement contained in this report comprises all the information in possession of this office relative to Navy pension laws and the naval pension fund.

I am, sir, very respectfully,

J. A. BENTLEY.

Hon. R. E. WITHERS,

Chairman Committee on Pensions, United States Senate.

January 1, 1900
The Governor
Albany

My Dear Sir:
I have the honor to acknowledge the receipt of your letter of the 29th inst.

and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Your obedient servant,
J. B. [Signature]